



DEPARTMENT OF THE ARMY  
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
REGULATORY DIVISION  
P.O. BOX 6898  
JBER, AK 99506-0898

April 15, 2024

Regulatory Division  
POA-2017-271

Pebble Limited Partnership  
ATTN: Mr. James Fuego  
3201 C Street, Suite 501  
Anchorage, Alaska

Dear Mr. Fuego:

This regards your January 2021 appeal of the November 2020 decision to deny PLP's final revised June 2020 Mine Plan application for a Department of the Army (DA) permit to discharge fill and dredged material into waters of the U.S. and work in, and placement of structures in navigable waters of the U.S. to facilitate the development of a copper, gold, and molybdenum mine and the supporting infrastructure. The proposed project would include a natural gas pipeline across Cook Inlet, a port and a transportation corridor from the port to the mine site. Pebble Limited Partnership's (PLP) proposed project location is in southwest Alaska, near Iliamna Lake, approximately 200 miles southwest of Anchorage and 60 miles west of Cook Inlet. The mine site and a majority of the proposed supporting infrastructure would be located in the Lake and Peninsula Borough with the remainder of supporting infrastructure located in the Kenai Peninsula Borough.

As you are aware, in January 2023, prior to the issuance of an Appeal Decision by Pacific Ocean Division, the EPA issued their *Final Determination of the U.S. Environmental Protection Agency Pursuant to Section 404(c) of the Clean Water Act – Pebble Deposit Area, Southwest Alaska (January 2023)*. With this 404(c) determination (also referred to as "veto"), the EPA, "[prohibited] the specification of and restrict[ed] the use for specification of certain waters in the Bristol Bay watershed as disposal sites for certain discharges of dredged or fill material associated with development of a mine at the Pebble deposit." The memorandum transmitting the Appeal Decision specifically stated: "The EPA's veto decision must be evaluated to determine its effect on how the District proceeds in this matter."

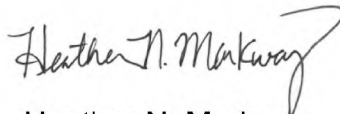
After a thorough review of the 2020 Mine Plan and the EPA Final Determination, the Corps has determined that the entire mine site and portions of the transportation and pipeline corridor fall within the EPA's Defined Area of Prohibition and the Defined Area of Restriction. As a result there are no available areas for disposal of dredged or fill material. Any associated infrastructure in the 2020 Mine Plan outside of the Defined

Area of Prohibition or the Defined Area of Restriction do not have separate utility and would not meet the purpose and need of the project, and therefore cannot be authorized separately even though they may fall outside of the boundaries of the defined areas under the 404(c) determination. Accordingly, the District Commander is denying your application for a DA permit. The enclosed Record of Decision outlines the reasons for denial of the application.

Because the denial is based upon a controlling factor (e.g., the EPA Proposed Determination) that cannot be changed by the District Commander, the permit denial is issued without prejudice, and this action is not subject to an administrative appeal under 33 CFR 331.5(b).

Please contact me via email at [heather.n.markway@usace.army.mil](mailto:heather.n.markway@usace.army.mil), by mail at the address above, by phone at (907) 753-2797, or toll free from within Alaska at (800) 478-2712, if you have questions. For more information about the Regulatory Program, please visit [www.poa.usace.army.mil/Missions/Regulatory](http://www.poa.usace.army.mil/Missions/Regulatory).

Sincerely,

A handwritten signature in black ink, reading "Heather N. Markway". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Heather N. Markway  
South Branch Chief

Enclosures

- 1) Record of Decision